

HON. JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE VALVE ANTITRUST  
LITIGATION

No. 2:21-cv-00563-JNW

**UNOPPOSED MOTION TO  
VOLUNTARILY DISMISS WITHOUT  
PREJUDICE**

This Filing Relates to:  
  
CONSUMER PLAINTIFFS

NOTE ON MOTION CALENDAR:  
August 15, 2025

**VOLUNTARY MOTION TO DISMISS WITHOUT PREJUDICE**

**I. INTRODUCTION**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Consumer Plaintiffs Susann Davis, Hope Marchionda, and Everett Stephens, by and through counsel, hereby move to voluntarily dismiss their claims against Defendant Valve Corporation (“Valve”) without prejudice. Ms. Davis, Ms. Marchionda, and Mr. Stephens respectfully request to withdraw from this case without prejudice to their rights as absent putative class members. Granting this request will not prejudice Valve and will not delay or hinder this action. Counsel for these plaintiffs have conferred with Valve’s counsel, and Valve does not oppose the relief sought in this motion.

## II. FACTUAL BACKGROUND

Ms. Davis, Ms. Marchionda, and Mr. Stephens, along with Plaintiffs Sean Colvin and Ryan Lally filed the first antitrust class action against Valve Corporation in the Central District of California in January 2021. *Sean Colvin, et al. v. Valve Corp., et al.* (Case No. 2:21-cv-00801 C.D. Cal.). Venue in that case was then transferred to the Western District of Washington and a Consolidated Amended Class Action Complaint, which included Consumer Plaintiffs Ms. Davis, Ms. Marchionda, Mr. Stephens, Mr. Lally, and Mr. Colvin, was filed in W.D. Wash. Case No. 2:21-CV-00563. ECF 34. On October 25, 2021, this Court stayed that case pending arbitration after holding that the plaintiffs agreed to a mandatory arbitration clause in Valve's Steam Subscriber Agreement ("SSA"). ECF 66. On October 4, 2024, Ms. Davis, Ms. Marchionda, and Mr. Stephens (along with Mr. Colvin) moved to lift the stay because Valve revised its SSA to no longer require arbitration. ECF 370. The motion to lift the stay was not made on Ryan Lally's behalf because he commenced and is currently pursuing arbitration of his claims against Valve in accordance with this Court's October 2021 Order. *Id.* at 1.

In August and October 2024, three lawsuits were filed by other law firms on behalf of consumers against Valve alleging similar claims to those brought in this case. *See Elliott, et al. v. Valve Corp.* (Case No. 2:24-cv-01218-JNW) ECF 1 (filed Aug. 9, 2024); *Hepler, et al. v. Valve Corp.* (Case No. 2:24-cv-01735-JNW) ECF 1 (filed Oct. 23, 2024); *Drake, et al. v. Valve Corp.* (Case No. 2:24-cv-01743-JNW) ECF 1 (filed Oct. 24, 2024). Counsel in all four lawsuits moved to be appointed interim lead class counsel for the putative consumer class, and, on May 2, 2025, this Court selected Cohen Milstein Sellers & Toll PLLC ("Cohen Milstein") for that role. ECF 407; ECF 409; ECF 411; ECF 412; ECF 441. On June 27, 2025, Cohen Milstein filed an amended class action complaint against Valve on behalf of three class representatives, namely, Connor Hepler, Aaron Lancaster, and Sean Colvin,<sup>1</sup> as well as the putative class. ECF 473. While Ms.

<sup>1</sup> As noted above, Mr. Colvin had been a named Plaintiff in the June 11, 2021 Consolidated Amended Complaint in this case. After being appointed interim lead counsel, on June 27, 2025, Cohen Milstein filed a Stipulated Motion for Withdrawal and Substitution of Counsel in this action

Davis, Ms. Marchionda, and Mr. Stephens want to remain as putative class members, they no longer wish to be class representatives in this action due to the time and expense involved in that role. Therefore, they move to voluntarily dismiss their claims against Valve Corporation without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

### III. LAW AND ARGUMENT

“Rule 41(a)(2) permits a plaintiff, with the approval of the court, to dismiss an action without prejudice at any time.” *Stevedoring Servs. of Am. v. Armilla Int’l B.V.*, 889 F.2d 919, 921 (9th Cir. 1989); Fed. R. Civ. P. 41(a)(2). Rule 41(a)(2) is meant to allow a plaintiff “to dismiss an action without prejudice so long as the defendant will not be prejudiced or unfairly affected by dismissal.” *Stevedoring Servs.*, 889 F.2d at 921 (internal citations omitted). Thus, “[a] district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result.” *Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001); *see also Bennett v. Dhaliwal*, 721 F. App’x 577, 578 (9th Cir. 2017). Legal prejudice means “prejudice to some legal interest, some legal claim, some legal argument.” *Westlands Water Dist. v. United States*, 100 F.3d 94, 97 (9th Cir. 1996) (listing examples of legal prejudice, including “loss of a federal forum, or the right to a jury trial, or a statute-of-limitations defense” and leaving “the remaining parties unable to conduct sufficient discovery”).

Ms. Davis, Ms. Marchionda, and Mr. Everett no longer wish to be plaintiffs and potentially serve as class representatives in the consumer antitrust litigation against Valve. Dismissing their claims without prejudice will not cause Valve to suffer any legal prejudice. Three other putative class representatives will remain in the consumer litigation, and this case will continue to move forward as planned. Cohen Milstein will pursue antitrust claims against Valve on behalf of Connor Hepler, Aaron Lancaster, Sean Colvin, and the putative consumer class. Therefore, the dismissal will not cause Valve to lose access to a federal forum, jury trial, or statute-of-limitations defense,

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with respect to Mr. Colvin (ECF 472), which the Court granted on July 14, 2025, substituting Cohen Milstein for the undersigned counsel in this motion. (ECF 480).

will not interfere with Valve's ability to conduct discovery, and will not subject Valve to the risk of additional litigation. The resources that Valve has invested into this litigation will not be rendered futile by dismissing Ms. Davis's, Ms. Marchionda's, and Mr. Everett's claims. Granting this motion to dismiss will not prejudice Valve's legal interest, legal claims, or legal arguments, but it will save Ms. Davis, Ms. Marchionda, and Mr. Everett time and expense. Therefore, this Court should grant the Voluntary Motion to Dismiss Without Prejudice and allow Ms. Davis, Ms. Marchionda, and Mr. Everett to withdraw from their positions as class representatives and remain in this action as absent putative class members.

#### IV. CONCLUSION

For the foregoing reasons, Susann Davis, Hope Marchionda, and Everett Stephens respectfully request that this Court grant their voluntary motion to dismiss without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).

DATED: August 15, 2025.

Respectfully submitted,

/s/ H. Troy Romero

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all CM/ECF recipients.

DATED: August 15, 2025.

/s/ H. Troy Romero  
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**LCR 7 CERTIFICATION**

I certify that this memorandum contains 1,025 words, in compliance with the Local Civil Rules.

DATED: August 15, 2025.

/s/ H. Troy Romero  
H. Troy Romero, WSBA #19044

HON. JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

IN RE VALVE ANTITRUST  
LITIGATION

No. 2:21-cv-00563-JNW

**[PROPOSED] ORDER GRANTING  
UNOPPOSED MOTION TO  
VOLUNTARILY DISMISS WITHOUT  
PREJUDICE**

This Filing Relates to:

CONSUMER PLAINTIFFS

Now before this Court is the Unopposed Motion to Voluntarily Dismiss Without Prejudice of Susann Davis, Hope Marchionda, and Everett Stephens in *In re Valve Antitrust Litigation* (Case No. 2:21-cv-00563-JNW). Having carefully reviewed the motion, the Court **GRANTS** the Motion. The claims of Susann Davis, Hope Marchionda, and Everett Stephens against Defendant Valve Corporation are hereby dismissed without prejudice. Susann Davis, Hope Marchionda, and Everett Stephens are no longer class representatives for the putative consumer class and may remain in this action as absent class members.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

\_\_\_\_\_  
Hon. Jamal N. Whitehead  
UNITED STATES DISTRICT JUDGE



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